

**REMARKS**

**Petition for Extension of Time Under 37 CFR 1.136(a)**

It is hereby requested that the term to respond to the Examiner's Action of October 10, 2007 be extended three months, from January 10, 2007 to April 10, 2007.

Authorization to charge a Credit Card is given to cover the extension fee. The Commissioner is hereby authorized to charge any additional fees associated with this communication to Deposit Account No. 19-5425.

In the Office Action, the Examiner indicated that claims 1 through 20 are pending in the application and the Examiner rejected all claims.

**Claim Rejections, 35 U.S.C. §102**

On page 2 of the Office Action, the Examiner rejected claims 1-18 under 35 U.S.C. §102(e) as being anticipated by U.S. Patent No. 7,024,209 to Gress et al. (Applicant notes that the Examiner included a basis for rejection of claims 19-20 under §102 on page 5 of the Office Action, and will provide arguments/remarks regarding all of the pending claims, claims 1-20.)

**The Present Invention**

The present invention enables a user to send someone a SMS or MMS text message even when that user is unable or unwilling to use the text messaging capabilities of his phone. With the present invention, the user speaks a voice message into a telephone and selects an option/function of the telephone that causes the voice message to be remotely transcribed into an SMS or MMS

message for display on a second telephone. The voice message is converted to an audio format and is sent to a transcription system, where it is transcribed into a text message and passed on to the second telephone for display as a text message.

**U.S. Patent No. 7,024,209 to Gress et al.**

U.S. Patent No. 7,024,209 to Gress et al. ("Gress") teaches a unified communications system configured for receiving, storing, and/or sending SMS messages based on management of the SMS messages according to a prescribed open-standards based protocol. In all cases, the system of Gress begins with an SMS text message, and then some process takes place after the text message is generated.

**The Cited Prior Art Does Not Anticipate the Claimed Invention**

The MPEP and case law provide the following definition of anticipation for the purposes of 35 U.S.C. §102:

"A claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference." MPEP §2131 citing *Verdegaal Bros. v. Union Oil Company of California*, 814 F.2d 628, 631, 2 U.S.P.Q. 2d 1051, 1053 (Fed. Cir. 1987)

**The Examiner Has Not Established a *prima facie* Case of Anticipation**

As noted above, the present claimed invention includes the input of a voice message which is then transcribed and sent on to a recipient as a text message. The claims have been amended to

more particularly point out this aspect of the claimed invention (e.g., claim 1: "...an end-user message originator speaking the voice message into the first mobile telephone and then selecting an option or function on the first mobile telephone to cause the voice message to be remotely transcribed to a SMS or MMS message for display on the second mobile telephone; (b) converting the voice message to an audio file format; (c) sending or streaming the audio file to a voice to text transcription system to enable an operator to intelligently transcribe the voice message into a transcribed text message; (d) causing the transcribed text message to be sent to the second mobile telephone as the SMS or MMS message.").

The essence of the present invention is that it allows someone to "speak a text message" - for example, to get a SMS text delivered to someone, but without the need to actually write and send a SMS text message; writing and sending a text message is a process which many people find difficult. With the present invention, the user simply speaks a voice message into a telephone; the user then selects an option displayed on the telephone that causes the voice message to be remotely transcribed by an operator using a transcription system; the transcription system then causes the transcribed text message to be sent to the desired recipient as a SMS or MMS text message.

Gress, U.S. Patent No. 7,024,209, requires the message originator to create and send a conventional SMS text message - see step 60 in Fig 3A. The message originator does not send a voice message at all. Consequently, there is no teaching or suggestion of the origination of a voice message that is subsequently converted to a text message for delivery to a recipient.

Without such teaching, the rejection of the claims under 35 U.S.C. §102 based on Gress is improper.

Each of the pending claims include the above-recited claim language, in varying forms, that is not taught or suggested by Gress. Accordingly, each of the independent claims, and all claims depending therefrom, patentably define over Gress and are in condition for allowance.

**Conclusion**

The present invention is not taught or suggested by the prior art. Accordingly, the Examiner is respectfully requested to reconsider and withdraw the rejection of the claims. An early Notice of Allowance is earnestly solicited.

Included herein is a Petition for extension of time to respond to the Examiner's Action, and authorization to charge the extension fee to a credit card. The Commissioner is hereby authorized to charge any additional fees or credit any overpayment associated with this communication to Deposit Account No. 19-5425.

Respectfully submitted

April 10, 2007  
Date

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